

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
March 23, 2007**

**2535 Capitol Oaks Drive
Third Floor Conference Room
Sacramento, California, 95833
(916) 263-2222**

Friday, March 23, 2007, beginning at 10:00 a.m.

Friday, March 23, 2007

Board Members Present: Arthur Duffy, President; Edward Yu, Vice President; Gregg Brandow; James Foley; Robert Jones; Richard Lyons; Mike Modugno; and Patrick Tami.

Board Members Absent: Millicent Safran and Cindy Tuttle

Board Staff Present: Cindi Christenson (Executive Officer); Joanne Arnold (Assistant Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Rita Lane (Liaison Deputy Attorney General); Gary Duke (Legal Counsel); Debbie Thompson (Budget Analyst); Donna Vaum (Enforcement Analyst); Tiffany Criswell (Enforcement Analyst); Larry Kereszt (Enforcement Analyst); and Mike Donelson (Staff Electrical Engineer).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Duffy at 10:00 a.m. Roll call was taken, and there was a quorum.

2. Public Comment

Mr. McLeod, representing PEEG, reported that there are concerns with the amount of time it is taking to process license renewals.

Ms. Christenson asked Mr. McLeod to have these people contact her in regards to their concerns.

3. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Mr. Lyons/Mr. Foley moved to approve the Delinquent Reinstatements as follows:

CIVIL

STEPHEN WEISSBERG

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

FIRE PROTECTION

DAVID THOMAN

Reinstate applicant's fire protection license once he takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

MECHANICAL

BREWSTER CARTER

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination.

METALLURGICAL

THEODORE KOPPENAAL

Reinstate applicant's metallurgical license once he/she takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

VOTE: 8-0, motion carried.

4. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Lyons/Mr. Tami moved to approve the Amended Handout Comity List.

VOTE: 8-0, motion carried

MOTION: Mr. Foley/Mr. Tami moved to approve the Temporary Civil Authorization for Ronald Ross for a period of 180 days.

VOTE: 8-0, motion carried.

5. 2007-2008 Strategic Plan (Possible Action)

Ms. Christenson reported that the Board is required to update the Strategic Plan once a year. She advised that the Board has two options for updating the Strategic Plan. One would be for the Board to go through the current Strategic Plan and update it; the other would be to have a special Strategic Planning Board meeting. Ms. Christenson recommended that the Board update the Strategic Plan this year, and wait until next year to hold a special meeting.

Ms. Christenson reviewed the changes to the Strategic Plan recommended by staff, as shown in the agenda. Dr. Brandow suggested adding an item to the goals regarding promoting comity and mobility through NCEES and include the importance of Board members attending NCEES meetings; having this in the Strategic Plan would help justify out-of-state travel.

Ms. Christenson requested any comments be provided to her before the next Board meeting, when the final Strategic Plan will be presented to the Board for approval.

6. Retention of Records on the Board's Website (Possible Action)

Mr. Duke provided the Board with handouts regarding the retention of records on other boards' websites and a site map of the Board's website.

Mr. Duke advised the Board that the Board's record retention schedule is due to be updated this year, and he recommended that electronic records be included.

Mr. Duke explained to the Board that a licensee who is currently on disciplinary probation has objected to the use of the word "guilty" in the summary of the disciplinary action that was printed in *Bulletin #31*, which was the last bulletin printed, and posted on the Board's website. Mr. Duke advised that, even though the word "guilty" was used in the pleadings and the licensee accepted that wording in the pleadings, Board staff did agree to rephrase the disciplinary summary posted on the Board's website to remove the word "guilty." However, since the bulletin is a printed document which was mailed to all of the Board's licensees, as well as being available as a complete document on the Board's website, staff does not believe the article in the bulletin should be changed since it is a historical document. Mr. Duke advised that the licensee, through his attorney, has repeatedly requested that the Board modify the article in the bulletin that is on the website or remove the bulletin in its entirety from the website.

President Duffy stated that historical documents should not be changed. He also stated that if people speak at public meetings or bring issues before the Board to be discussed at public meetings, then they should be prepared to have their names mentioned in the minutes.

Mr. Modugno noted that by continuing to request that the Board discuss and consider this matter, the licensee seemed to be expanding the public record regarding the matter, rather than reducing it.

Mr. Duke requested that the licensee not be referenced by name in the minutes. He explained that the Bagley-Keene Open Meetings Act specifically prohibits boards from requiring that members of the public identify themselves in order to attend or speak at meetings.

Ms. Eissler explained that when the Board's website was first created, it was decided to include the minutes of the Board meetings and the bulletins on the website. However, at the time, there was no discussion regarding how long those documents should remain on the website, so they have never been removed. Ms. Eissler explained that hard copies of the minutes and the bulletins are retained and are available to the public upon request and would continue to be available even if the older ones were removed from the website. She stated that, a few years ago, the Board had established time periods for how long summaries of citations and disciplinary actions were to remain on the Board's website.

Mr. Duke suggested that the Board might wish to appoint a subcommittee to work with Board staff on determining the time periods for retaining electronic records.

Mr. Jones stated that he did not believe the Board or staff needed to spend much time on this issue. He stated that there should be a set time period for items to remain on the website, and if people have a specific issue about a specific item, they can bring it to the Board's attention, and the Board could address it then. He stated that the Board cannot deal with every possible issue all at once. Mr. Jones suggested that a statement could be included on the agenda advising people that their testimony at Board meetings is public and their names may be included in the minutes, which are posted on the Board's website.

Mr. Lyons suggested that there should be a set time period for certain information to remain on the Board's website and anything older than that would be removed.

Mr. Tami stated that it would be interesting to review data regarding how many hits per year certain pages on the Board's website receive. Ms. Eissler advised that monthly statistical reports are available that list how many hits per month each page of the Board's website receives.

The Board agreed that historical printed documents, such as the bulletin, should not be changed on the website since the printed version cannot also be changed. The Board directed staff to present recommendations at a future meeting for how

long certain documents, such as minutes and bulletins, should remain on the website.

7. Administration

a. Fund Condition

Ms. Thompson reported on changes included in the Board's fund condition dated March 12, 2007:

- The year-end application revenue projection for FY 2006-07 increased from \$3,609,000 to \$3,632,000.
- The year-end actual reimbursements for FY 2006-07 increased from \$27,439 to \$40,418.
- The year-end renewal revenue projection for FY 2005-06 decreased from \$5,397,000 to \$5,322,000.
- The total year-end revenue received by the Board through January 31, 2007, was \$6,546,148 which is \$340,276 more than the prior FY 2005-06 year-end total received.

Ms. Thompson reported the Board projects to maintain an average of 4.5 months in fund reserves from FY 2006-07 and out to FY 2010-1011.

b. Fiscal Year 2006-07 Budget

Ms. Thompson reported that of the \$8,297,839 budget allocation for FY 2006-07, Board staff project an \$8,168,175 expenditure which will leave a \$160,489 year-end balance.

c. Fiscal Year 2007-08 Budget Change Proposals

Ms. Thompson reported that Assembly budget hearings scheduled for March 20, 2007, were cancelled, and there is no new date set yet. The Senate budget hearings are set for April 11, 2007.

d. Fiscal Year 2008-09 Budget Change Proposals

One BCP Concept has been identified for submittal to DCA for the Board's FY 2008-09 additional funding. This Concept proposes an additional Office Technician to assist the Board's Licensing Program with application evaluations e-mails, faxes, and telephone inquiries associated with the workload increase due to an increase in applicants. Ms. Thompson discussed the Concept paper and identified the current three alternatives identified to resolve the workload increase. Department of Finance requires all BCPs identify at least three viable alternatives to resolve the BCP problem.

MOTION: Direct staff to submit the BCP and identify Alternative #1 as the proposed solution.

VOTE: 8-0, motion carried.

e. Land Surveyor Position for FY 2008-09

Board staff is scheduled to meet with DCA and a representative from Department of Personnel Administration on March 29, 2007, to discuss the concept and whether other easier and less time-consuming alternatives than designating a new classification are available.

f. Publications Review

Ms. Eissler reported that the Enforcement Bulletin articles have been given to Dr. Brandow and Mr. Tami for review. The Bulletin is expected to be mailed out in May 2007.

g. Applicant Direct Payment of National Exam Fees to NCEES

Ms. Thompson reported that at the March 2007 Board meeting, Board members voted to have Board staff begin the process for developing regulations for NCEES to process directly national exam payment for exams. Because this process is lengthy and time consuming, Board staff believes it is appropriate at this time to also determine if NCEES can administer the exams. Representatives from NCEES had a telephone conference call with Ms. Christenson, Ms. Thompson, and Denise Tomlinson regarding the possibility of NCEES contracting with the Board to administer both the national and the California state-specific exams. Board staff is in the process of preparing information to send to NCEES regarding the type and number of exams the Board administers each year. NCEES indicated it may take some time to evaluate the Board's exam population and whether or not NCEES would be able provide these services. Ms. Thompson will report the status at the next Board meeting.

8. Enforcement

Ms. Eissler reviewed the statistics provided in the agenda packet. She advised the Board that the Enforcement Unit is working very hard to reduce the backlog of old complaint cases. She also advised that Michelle Clark, the Unit's clerical support person, had accepted a promotion at another agency; we are in the process of recruiting to fill that position. She advised that Brook Cismowski and Larry Kereszt, the two newest Enforcement Analysts, were doing an excellent job learning the process and getting up to speed. Ms. Eissler introduced Ms. Vaum, Ms. Criswell, and Mr. Kereszt, who were attending the meeting.

The Board complimented the Enforcement Unit on its hard work and the reduction in the backlog of cases.

9. Legislative

a. Discussion of Proposed Legislation for 2007, including but not limited to SB 355 (Possible Action)

Ms. Arnold reported on information contained in the agenda.

MOTION: Mr. Foley/Mr. Tami moved to watch AB 1025, Professions and vocations: denial of licensure.

VOTE: 8-0, motion carried.

Ms. Arnold reported that the only Bill that applies to Engineers at this time is SB 355, Construction supervision.

MOTION: Mr. Foley/Mr. Jones moved to watch SB 355.

VOTE: 8-0, motion carried.

b. Regulation Status Report

Ms. Arnold reported at this time there are no Regulations going through the process.

10. Technical Advisory Committee TAC Reports

a. Land Surveyor TAC (Possible Action)

Mr. Tami reported that the LS TAC had a meeting and that another TAC meeting in the near future would be very beneficial.

Mr. Tami reported that the LS TAC will be recommending the Board approve the LS TAC Work Plan and the Log Book at the next meeting.

b. Board Assignments to TACs (Possible Action)

Mr. Foley stated that he would like the EE TAC to review the issue of power being distributed through ethernet connections and whether this would fall within the defined area of practice of electrical engineering. He explained that he has encountered several projects recently for which there has been a question as to whether or not such work must be designed by an electrical engineer. He will discuss the issue further with Mr. Modugno.

c. Appointment of TAC Members (Possible Action)

President Duffy would like to look into extending the terms of all the CE TAC Members. President Duffy directed staff to send letters to the current CE TAC Members to see if they are interested in extending their terms and if they are to bring their names to the next Board meeting.

Ms. Christenson advised that she would have the staff liaisons to all of the TACs review the members' terms and present recommendations at the next Board meeting.

MOTION: Mr. Lyons/Mr. Foley moved to appoint Mr. Phillip Ball to the ME TAC.

VOTE: 8-0, motion carried.

11. Liaison Reports (Possible Action)

a. ABET

No report given.

b. NCEES

1. Report on 2007 Board President Assembly

Mr. Tami reported that he, Ms. Christenson, and Dr. Brandow attended the meeting in Atlanta and that the main topic was the international use of the PE examinations. At this time, the examination is currently only administered in English.

Mr. Tami also reported that they looked at the NCEES Strategic Plan.

2. Nomination of Officers for Western Zone and Board of Directors

MOTION: Mr. Foley/President Duffy moved to send a letter on behalf of the Board nominating Mr. Tami as the Assistant Western Zone Vice-President and Dr. Brandow as Treasurer.

VOTE: 8-0, motion carried.

Ms. Christenson stated that it is very important that the Board be as involved as possible with NCEES.

c. Technical and Professional Societies

Ms. Eissler and Mr. Tami attended a meeting with the Sacramento Chapter of CLSA.

Mr. Tami reported that CLSA put together a DVD to present to High Schools to promote Land Surveying.

12. President's Report

President Duffy appointed Ms. Tuttle and Mr. Foley to the nominating committee to make recommendations for the next President and Vice President of the Board.

13. Executive Officer's Report

1. Administration Report

a. Executive Summary Report

Information contained in the agenda.

2. Personnel

a. New Hires

Ms. Christenson introduced Rita Lane, the Board's new Liaison Deputy Attorney General, and Mike Donelson, the Board's new Staff Electrical Engineer.

b. Vacancies

Ms. Christenson reported that there is a vacancy in the Enforcement Unit.

Ms. Christenson also reported that Gloria Blanco, the Board's receptionist, passed away suddenly; therefore, that position is now vacant.

3. Enforcement/Examination/Licensing

a. College Outreach

Ms. Christ reported that she did an outreach at San Jose State and Ms. Hirano did one at Sacramento State.

b. Report on Enforcement Activities

No additional report given.

c. Report on Examination Activities

Ms. Christenson stated that the staff is preparing for the upcoming April examinations.

4. Publications/Website

a. Website Activity Statistics

Information contained in the agenda.

5. Other –

a. DCA Update

Ms. Christenson introduced Sarah Bower, the Assistant Deputy Director for Board Relations and reported that Scott Reid is currently the Acting Director since Charlene Zettel has resigned.

b. COOP/COG Report

No report given.

c. iLicensing

Ms. Christenson reported that iLicensing is moving forward.

d. Record retention project

This was discussed in item # 6.

14. **Approval of Board Travel (Possible Action)**
No Board Travel.
15. **Other Items Not Requiring Board Action**
Date of Next Board Meeting: May 2007, Orange County/Anaheim, California.
Ms. Christenson stated that the next Board Meeting will be held on May 10 and 11, 2007.
16. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]**
- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)
 - b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Supreme Court Case No. S149982 (Court of Appeal First Appellate District, Division 3, Case No. A109241 [San Francisco Superior Court Case No. 402996])
 - c. Michael Z. Yevtovich v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS105225
 - d. Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160
17. **Open Session to Announce the Results of Closed Session**
Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically; Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); Michael Z. Yevtovich v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS105225; Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160
- Ms. Christenson reported that the Board approved the successful and unsuccessful appeals of the October 2006 Professional Geotechnical Engineering Examination and the October 2006 Professional Structural Engineering Seismic Examination.
- Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations.

Ms. Christenson reported that the Board adopted the Stipulation regarding Wallace Beron and the Proposed Decision regarding Richard Godina.

18. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- a. **Approval of the Minutes of the January 26, 2007, Board Meeting**
- b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Lyons/Mr. Yu moved to approve the consent calendar.

VOTE: 8-0, motion carried.

19. Adjourn

The Board adjourned at 1:00 p.m.

PUBLIC PRESENT

Tom Stout, CSPE/CLCPE

William R. Hofferer, CLSA

Steve Hao, Caltrans

Brad Johnson, CPIL

D'Arcy McLeod, PECG

Nicole Leddy, DCA- Leg/Reg